

Chapter 5.50**MOBILE VENDING**

(3345-2/97, 3493-5/01, 3622-12/03)

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5.50.010 Purpose and Findings. The City Council of the City of Huntington Beach finds that Mobile Vending Vehicles pose traffic hazards, public health hazards and impact the safety of residents within the City of Huntington Beach. The intent of the ordinance is to provide clear and concise regulations to insure public safety and prevent traffic and health hazards. This ordinance is also intended to preserve the peace, and welfare of the residents of Huntington Beach.
(3345-2/97)

5.50.020 Definitions: For the purposes of this Chapter: (3345-2/97)

- (a) Chief of Police - shall mean the Police Chief or his or her designee. (3345-2/97)
- (b) City Administrator - shall mean the City Administrator or his or her designee. (3345-2/97)
- (c) City Attorney - shall mean the City Attorney or his or her designee. (3345-2/97)
- (d) City Treasurer - shall mean the City Treasurer or his or her designee. (3345-2/97)
- (e) Director of Planning - shall mean the Planning Director (herein Director) or his or her designee. (3345-2/97, 3622-12/03)
- (f) Goods or Merchandise - includes items and products of every kind and description, including all foods, produce, and beverage items. (3345-2/97)

- (g) Human Powered Devise - shall mean any device moved by human power including but not necessarily limited to any pushcart, wagon, bicycle, tricycle, grocery cart, or other wheeled container or conveyance. (3345-2/97)
- (h) Ice Cream Truck(s) – shall mean a motor vehicle engaged in the curbside vending or sale of frozen or refrigerated desserts, confections, or novelties commonly known as ice cream, or prepackaged candies, prepackaged snack foods, or soft drinks, primarily intended for the sale to children under 12 years of age. (3493-5/01)
- (i) Mobile Vending Vehicle - shall mean any vehicle, as that term is defined in the California Vehicle Code, which is equipped or primarily used for retail sales of fruits, vegetables or produce, and/or prepared, pre-packaged, or unprepared, unpackaged food of any kind on any public street, alley or highway or private street or alley within the City of Huntington Beach. The inventory of these vehicles is not necessarily limited to edible items and may include non-food sundries. A human powered device is not a mobile vending vehicle. (3345-2/97, 3493-5/01)
- (j) Mobile Vendor - shall mean any person, as defined in this article, who: (3345-2/97, 3493-5/01)
- (1) Owns, controls, manages and/or leases a vending vehicle; and/or (3345-2/97)
- (2) Contracts with a person(s) to drive, operate, prepare foods and/or vend from a food vending vehicle. (3345-2/97)
- (k) Operator - as used in this chapter shall mean any and all person(s) who drive, operate, prepare foods and/or vend from a food vending vehicle. (3345-2/97, 3493-5/01)
- (l) Person - shall mean any natural person, firm, partnership, association, corporation, or other entity of any kind or nature. (3345-2/97, 3493-5/01)
- (m) Public property - shall mean any real property, or interest therein, owned, leased, operated, or otherwise controlled by the City of Huntington Beach other than a street, alley, parkway or sidewalk. (3345-2/97, 3493-5/01)
- (n) Restocking - shall mean any transfer of goods or merchandise to a mobile vending vehicle from any other person or vehicle and includes, but is not limited to loading and delivery. (3345-2/97, 3493-5/01)
- (o) Risk Manager - shall mean the City's Risk Manager or his or her designee. (3345-2/97, 3493-5/01)
- (p) Vehicle - shall mean as defined in the Vehicle Code of the State of California and shall not include any human powered device. (3345-2/97, 3493-5/01)
- (q) Vend or Vending - as used in this chapter means soliciting, displaying, or offering produce, fruits, vegetables, prepared food, pre-packaged food or non-food sundries of any kind for sale or barter or exchange from a vehicle on a public or private street, alley, highway or public place within the City of Huntington Beach and includes the movement or standing of a vending vehicle for the purpose of searching for, obtaining or soliciting retail sales of produce, fruits, vegetables, prepared food, pre-packaged food or non-food sundries, including but not limited to goods, wares, or merchandise. (3345-2/97, 3493-5/01)
- (r) Vendor - shall mean any person who engages in the act of vending from a vehicle or who drives or otherwise operates any such vehicle for the purpose of vending therefrom. (3345-2/97, 3493-5/01)

5.50.030 Permit Required. No person shall own, control, manage, lease or contract with other persons for the operation of a vending vehicle in the City of Huntington Beach without the appropriate valid permit issued pursuant to the provisions of this article in addition to any other license or permit required by the City of Huntington Beach. (3345-2/97)

5.50.040 Vendor's Permit Required. Any person desiring to obtain a vendor's permit to engage in the vending of goods or merchandise from a vehicle, or driving of such vehicle, pursuant to this section shall make application to the Director, or his or her designee. Such application shall be accompanied by a nonrefundable application fee in such amount as established by resolution of the City Council. Any such permit shall be required to be renewed annually and a separate nonrefundable application fee paid yearly for such renewal application. Each applicant for a vendor's permit, or an operator or applicant for an operator's permit on behalf of such proposed vendor, shall furnish the following information and documentation as part of or in conjunction with such application: (3345-2/97, 3622-12/03)

- (a) The present or proposed address from which the business is to be conducted, including the location of, restocking and overnight parking of the mobile vending ordinance; (3345-2/97)
- (b) The full and true name under which the business will be conducted; (3345-2/97)
- (c) The full and true name and any other names used by the applicant; (3345-2/97)
- (d) The present residence address and telephone number of the applicant; (3345-2/97)
- (e) California Driver's License number of the applicant; (3345-2/97)
- (f) Acceptable written proof that the applicant is at least eighteen years of age; (3345-2/97)
- (g) The applicant's height, weight, color of eyes and hair, and date of birth; (3345-2/97)
- (h) The business, occupation or employment history of the applicant for the three (3) year period immediately preceding the date of the application; (3345-2/97)
- (i) The permit history of the applicant, for the three (3) year period immediately preceding the date of the filing of the application, including whether such applicant, in previously operating in this or any other city, county, state or territory, has ever had any similar license or permit, or franchise revoked or suspended, and if so, the circumstances of such suspension or revocation; (3345-2/97)
- (j) Written proof satisfactory to the City Attorney or Risk Manager that the applicant is insured under the policy of insurance required for such business pursuant to § 5.50.090 of this Chapter; (3345-2/97)
- (k) When any change occurs regarding the written information required in this Chapter, prior to issuance of a permit, the applicant shall give written notification of such change to the Director within two (2) weeks after such change; (3345-2/97, 3622-12/03)
- (l) If the applicant is an individual who intends to own, operate and drive his or her own vehicle, it is not necessary to pay a fee for the vendor's permit application separate from the fee paid for the operator's permit application. (3345-2/97)

5.50.050 Operator's permit required - Application for Operator's Permit; Contracts; Required Fee.

Any person desiring to obtain an operator's permit to conduct or otherwise operate the business of vending goods or merchandise from a vehicle pursuant to this Section shall make application to the Director or his/her designated representative. Such application shall be accompanied by a nonrefundable application fee in such amount as established by Resolution of the City Council. Any such permit shall be required to be renewed annually and a separate nonrefundable application fee paid yearly for such renewal application. Each applicant for an operator's permit shall furnish the following information and documentation as part of or in conjunction with such application: (3345-2/97, 3622-12/03)

- (a) The present or proposed address from which the business is to be conducted; (3345-2/97)
- (b) The full and true name under which the business will be conducted; (3345-2/97)
- (c) The full and true name and any other names used by the applicant; (3345-2/97)
- (d) The present residence and business addresses and telephone numbers of the applicant; (3345-2/97)
- (e) A description of the goods or merchandise which the business will vend; (3345-2/97)
- (f) The number of vehicles to be owned, operated, or controlled by the applicant and the makes, body styles, years, serial and engine numbers, state license plate numbers, and names and addresses of the registered and/or legal owners of each vehicle; (3345-2/97)
- (g) A description of the logo, color scheme, insignia, and any other distinguishing characteristics of the applicant's vehicles. (3345-2/97)

5.50.060 Issuance of Permit. The Director shall grant the vendor's permit or operator's permit within ten (10) days after receiving the completed application only if he or she finds that all of the following requirements have been met: (3345-2/97, 3622-12/03)

- (a) The required fees have been paid; (3345-2/97)
- (b) The application conforms in all respects to the provisions of this section; (3345-2/97)
- (c) The applicant has not made a material misrepresentation of fact in the application; (3345-2/97)
- (d) The applicant has not had a similar permit denied or revoked by the City of Huntington Beach within a period of one year prior to the date of such application; (3345-2/97)
- (e) The applicant does not have any outstanding debt owing to the City of Huntington Beach; (3345-2/97)

5.50.070 Denial of Permit. If the Director does not find that all of the requirements set forth in § 5.50.060 as applicable have been met, he or she shall deny the application for the vendor's or operator's permit. In the event the application for the permit is denied by the Director, written notice of such denial shall be given to the applicant specifying the ground or grounds of such denial. Notice of denial of the application for the permit shall be deemed to have been served upon the date it is personally serviced on the applicant or when deposited in the United States mail with postage prepaid and addressed to the applicant at his or her residence address as set forth in the application for the permit. (3345-2/97, 3622-12/03)

Any applicant whose application for a vendor's or operator's permit has been denied by the Director may appeal such denial to the City Administrator by filing a written notice of appeal with the Director within ten (10) days following the date of service of the decision and payment of the appeal fee prescribed by resolution of the City Council. The date of filing of said notice of appeal shall be the date said notice and appeal fee are received by the Director. (3345-2/97, 3622-12/03)

No person or entity whose permit is finally denied shall be eligible to apply for a new permit for a period of one year following such final denial. (3345-2/97)

5.50.080 Revocation of Permit. Any vendor's or operator's permit may be revoked by the Director for good cause shown including but not necessarily limited to any of the following reasons: (3345-2/97, 3622-12/03)

- (a) Falsification of any information supplied by the permittee upon which issuance of the permit was based; (3345-2/97)
- (b) Failure of the permittee, or any employees or subcontractors of the permittee, to comply with the regulations set forth in this section; (3345-2/97)
- (c) Conviction of a violation, or plea of guilty or *nolo contendere*, by the permittee, or any employee, subcontractor or independent contractor of the permittee, of any state law or municipal ordinance while in the course of conducting vending operations from a vehicle pursuant to the permit; (3345-2/97)
- (d) Conviction of a violation, or a plea of guilty or *nolo contendere*, by the permittee of any applicable provision or requirement of this section; (3345-2/97)
- (e) No such revocation shall become effective until expiration of the appeal period. Notification of the permit holder shall be made either by personal delivery or by certified or registered mail, return receipt requested, addressed to the permit holder at such permit holder's residence address as set forth on the application for a permit. Service shall be deemed made on the permit holder on the date personally delivered or on the date of mailing. A permit holder may appeal such revocation to the City Administrator by filing a written notice of appeal with the Director within ten (10) days following the date of service of such decision and payment of the appeal fee as prescribed by resolution of the City Council. The date of filing of said notice of appeal shall be the date said notice and appeal fee are received by the Director. If a timely appeal is filed, the revocation shall be stayed pending the decision of the City Administrator. Otherwise the suspension or revocation shall become effective immediately upon expiration of said appeal period. (3345-2/97, 3622-12/03)
- (f) No person or entity whose permit is revoked shall be eligible to apply for a new permit for a period of one year following such revocation. (3345-2/97)

5.50.090 Appeals. Upon receipt of a timely appeal by the City Administrator or his designated representative, shall hear such appeal within twenty (20) days following the date of such appeal and shall give the appellant not less than five (5) days advance notice of the date of such hearing. The decision of the City Administrator shall be based upon the same criteria as set forth in this section which are applicable to the issuance or revocation of such permit. The appellant shall be notified of the decision of the City Administrator by mailed, written notice. The decision of the City Administrator shall be final. No revocation of a permit pursuant to this section shall be deemed effective during the pendency of a timely filed appeal until the date of mailing of the City Administrator's decision; provided, however, no permit holder shall operate during any period of time in which the insurance coverage required by this section is not in full force and effect. (3345-2/97)

5.50.100 Enforcement. The Director and the Chief of Police have the authority to enforce the provisions of this ordinance. (3345-2/97, 3622-12/03)

5.50.110 Temporary Special Events Permit. Peddlers and vendors wishing to conduct business at any special event shall apply to the City for a Temporary Vending License. Application for such a license must be made at least thirty (30) days prior to the beginning of the event. Applicants must meet the same application requirements as other peddlers and vendors. The license is valid only for the duration of the special event. Peddlers and vendors granted a temporary license are subject to the same operating regulations as other vendors, except where otherwise specified. (3345-2/97)

5.50.120 Trash Receptacles and Removal.

- (a) All Mobile Vending vehicles shall be equipped with refuse receptacles large enough to contain all refuse generated by the operation of such vehicle; (3345-2/97)
- (b) The operator of the mobile vending vehicle shall pick up all refuse generated by such operation within a fifty (50') foot radius of the vehicle before such vehicle is moved, all refuse shall be disposed of at an approved solid waste facility. (3345-2/97)

5.50.130 Hours of Operation.

- (a) No vehicle or stand used for vending shall remain on public property during non-operating hours. Overnight parking of Mobile Vending vehicle on a public street or alley is prohibited. (3345-2/97)
- (b) No vending shall be permitted by any operator or conducted by a vendor except between the hours of 7:00 a.m. and 8:00 p.m. (3345-2/97)

5.50.140 Insurance Provisions. All operations shall have liability insurance covering the vehicle in accordance with the State of California (3345-2/97)

5.50.160 Noise Level.

- (a) Any use of amplified sound making devices, including vehicle horns, to advertise, draw attention to, or announce the presence of any such vehicle shall comply with the limitations and provisions set forth in the Huntington Beach Municipal Code. No amplified sound making devices shall be used for such purposes upon any public street immediately contiguous to any property zoned for residential use within the City. (3345-2/97)
- (b) Non-amplified sound making devices shall not be made while the vehicle is stopped, parked, or otherwise in a stationary position, on any public street in an area zoned for residential use within the City; and such sounds shall not be audible to a person with normal hearing for a distance of more than two hundred (200) feet in a area zoned for residential use within the city. (3345-2/97)

5.50.170 Prohibited Conduct.

- (a) No person shall vend from a Mobile Vending vehicle, except for ice cream trucks, which is stopped, parked or standing on any public street, alley or highway in any of the following situations: (3345-2/97, 3493-5/01)
 - (1) Within three hundred (300) feet of any public school property, park, playground or recreational facility; (3345-2/97, 3622-12/03)

- (2) Within three hundred feet (300') of any other Mobile Vending vehicle which is engaged in the operation of vending; (3345-2/97)
 - (3) Within one hundred (100') feet of an intersection (including public alleys); (3345-2/97)
 - (4) When the posted speed limit on the public street, alley or highway is greater than thirty-five (35) miles per hour. (3345-2/97)
 - (5) When the Mobile Vending vehicle is parked in violation of any other provision of this Code or the California Vehicle Code. (3345-2/97)
 - (6) When the Mobile Vending vehicle is duly registered and licensed by the State of California with an unladen weight exceeding six thousand (6,000) pounds. (3345-2/97, 3493-5/01)
 - (7) When any part of the Mobile Vending vehicle is open to prospective customers other than on the side of the vehicle next to the right side of the street or highway; (3345-2/97)
 - (8) When the Mobile Vending vehicle is not stopped, parked or standing on the right side of the street or highway; (3345-2/97)
 - (9) When the prospective customer is standing or sitting in another vehicle; or, (3345-2/97)
 - (10) When the prospective customer is located in that portion of the street, alley or highway which is open to vehicular traffic; (3345-2/97)
 - (11) When the Mobile Vending vehicle is within any parkway, alley, sidewalk or within a no parking area as defined by Huntington Beach Municipal Code § 10.40.050, or other public property. (3345-2/97)
- (b) Re-stocking of a Mobile Vending vehicle is prohibited on a public street or alley. (3345-2/97)
- (c) No Mobile Vending vehicle shall attach to or receive any utilities from private or public property. (3345-2/97)
- (d) No additional lighting other than that required by the California Vehicle Code may be installed or operated on a Mobile vending vehicle. (3345-2/97, 3493-5/01)
- (e) All Mobile Vending vehicles are prohibited from operating on private property except mobile vending vehicles shall be permitted to provide meals/snacks for employees at the private property for a period of thirty (30) minutes or less (such as construction sites). (3345-2/97, 3493-5/01)
- (f) All vending from any human powered device is prohibited. (3345-2/97, 3493-5/01)

5.50.180 Applicability of Regulations to Existing Businesses. The provisions of this article shall be applicable to all persons and businesses described herein whether the herein described activities were established before or after the effective date of the ordinance enacting this article into law. All such persons and businesses shall have thirty (30) days from said effective date to file a completed application for a vendor's or operator's permit with the City of Huntington Beach. (3345-2/97)

5.50.190 Conducting as a Nuisance. Any Mobile Vending vehicle operated contrary to the provisions of this article shall be hereby declared to be unlawful and a public nuisance and the City Attorney may, in addition to or in lieu of prosecuting a criminal action hereunder, commence an action or actions, proceeding or proceedings, for the abatement, removal or enjoyment thereof, in the manner provided in Chapter 17.10 of the Huntington Beach Municipal Code, and may take such other steps and may apply to such court or courts as may have jurisdiction to grant such relief as will abate or remove such establishment and restrain and enjoin any person from operating a Mobile Vending vehicle contrary to the provisions of this article. (3345-2/97, 3622-12/03)

5.50.200 Penalty for violation. Every violation of the provisions of this article shall be deemed to be a misdemeanor punishable by imprisonment not exceeding four (4) months or by fine not exceeding five-hundred dollars (\$500), or by both fine and imprisonment. Each day any violation of any said provision of this article shall constitute a separate offense. (3345-2/97)

5.50.210 Exemptions. The requirements of this section shall not apply to: (3345-2/97)

- (a) Any person delivering any goods or merchandise by vehicle where such goods or merchandise has been ordered in advance for such delivery from any business located at a permanent location and which goods or merchandise is being delivered from such location to the customer by vehicle, regardless of the point of sale thereof. (3345-2/97)
- (b) Any person engaged in the vending of goods or merchandise on public property where such persons has been authorized by the City of Huntington Beach to engage in such activity by a permit, lease, real property license, agreement, or other entitlements issued by the City for such purpose. (3345-2/97)

5.50.220 Severability. If any section, subsection, subdivision, paragraph, sentence, clause, or phrase in this chapter or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this chapter or any part thereof. The City Council hereby declares that it would have passed each Section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof irrespective of the fact that any one (1) or more subsections, subdivisions, paragraphs, sentences, clauses, or prases be declared unconstitutional, or invalid, or ineffective. (3493-5/01)